

## ATTACHMENT A

	Loughry's false trial testimony	Testimony and evidence establishing falsity
1	<p>Q. During the 10 years that you were a law clerk, did anyone tell you anything about that desk?</p> <p>A. No.</p> <p><i>Loughry's Trial Transcript – Vol. 1, p. 8</i></p>	<p>Benjamin testified that he told Loughry, “Hey, you’ve got a Cass Gilbert Desk,” when Loughry was a law clerk.</p> <p><i>Benjamin Trial Tr., Vol. I, p. 9</i></p>
2	<p>Q. Do you recall him ever being in your office as a law clerk?</p> <p>A. No. And that would have been an anomaly.</p> <p>Q. Did you have any conversation with Sara Thompson about that desk?</p> <p>A. Not about that desk, but I certainly know Sara.</p> <p><i>Loughry's Trial Transcript – Vol. 1, p. 9</i></p> <p style="text-align: center;">* * * *</p> <p>Q. And you heard Justice Benjamin say that when you were a law clerk, he talked to you about the desk you had as being a Cass Gilbert desk?</p> <p>A. I most certainly heard him say that.</p> <p>Q. And he said you told him you were lucky to have it?</p> <p>A. That would be false.</p> <p>Q. So you think he’s lying?</p> <p>A. I think he, you know – I know it’s not nice to use those words, but he’s either flat-out lying or he’s misremembering the circumstances. As I said, things were very contentious at the Court.</p> <p><i>Loughry's Trial Transcript – Vol. 1, p. 106.</i></p>	<p>Benjamin testified about being in Loughry’s office in late 2006 or early 2007, when Loughry was a law clerk, discussing Loughry’s desk, and Loughry’s saying he was fortunate to have it; it was very historical.</p> <p><i>Benjamin Trial Tr., Vol. I, p.8-9</i></p> <p>Thompson testified that in 2007, when Loughry was a law clerk, they had a discussion in Loughry’s office about his desk, and Loughry told her his desk was a Cass Gilbert desk, it was historic, and “that’s why he wanted to keep it.”</p> <p><i>Thompson Trial Tr., p. 5</i></p>

## ATTACHMENT A

3	<p>Q. And still up to that point [Dec. 2012], had anyone told you anything regarding anything -- that that desk was anything other than just an old government desk?</p> <p>A. No. An old government desk. In fact, people weren't talking about it, so no one even really said that. That's my impression is it's an old government desk.</p> <p><i>Loughry Trial Tr., Vol. I, p. 12</i></p>	<p>Benjamin testified about being in Loughry's office in late 2006 or early 2007, when Loughry was a law clerk, discussing Loughry's desk, and Loughry's saying he was very fortunate to have it; it was very historical.</p> <p><i>Benjamin Trial Tr., Vol. I, p.8-9</i></p> <p>Thompson testified that in 2007, when Loughry was a law clerk, they had a discussion in Loughry's office about his desk, and Loughry told her his desk was a Cass Gilbert desk, it was historic, and "that's why he wanted to keep it."</p> <p><i>Thompson Trial Tr., p. 5</i></p>
4	<p>Q. Were you regularly asked where you were going?</p> <p>A. No.</p> <p>Q. Would you tell them [Angus and Gundy] where you were going?</p> <p>A. Of course.</p> <p><i>Loughry Trial Tr., Vol. I, pp. 17-18</i></p>	<p>Gundy testified that when he asked Loughry for a destination, Loughry "would not tell us."</p> <p><i>Gundy Trial Tr., p. 27-28</i></p> <p>Angus testified that Loughry never gave a destination, and when asked, sometimes he would not say anything, and on one occasion, said, "It's none of their f'ing business"</p> <p><i>Angus Trial Tr., p. 20</i></p>
5	<p>Q. And did you claim mileage [referring to travel to and from Pound Institute conference]?</p> <p>A. I did claim mileage.</p> <p>Q. Why?</p> <p>A. I claimed mileage, just as I had done before this and after this, for reimbursement to the state of West Virginia.</p> <p><i>Loughry Trial Tr., Vol. I, p. 23</i></p>	<p>The jury's verdict on Count Three, and the evidence supporting that verdict, contradict defendant Loughry's statement that he claimed mileage "for reimbursement to the state of West Virginia."</p>
6	<p>Q. Did you consciously not reimburse the state?</p> <p>A. Well, that's -- your question is -- your question is kind of compound there. Did I intend to defraud the state? No, or the Pound or anyone.</p>	<p>The jury's verdicts on Counts Three, Five, Six, Ten, Eleven, Twelve, Fifteen, and Eighteen, and the evidence supporting those verdicts, contradict defendant Loughry's statement that he did not intend to defraud</p>



## ATTACHMENT A

<p>6</p> <p style="text-align: center;">* * * *</p> <p>Q. Have you ever used a state vehicle for personal use? A. No. <i>Loughry Trial Tr., Vol. I, p. 2.</i></p> <p style="text-align: center;">* * * *</p> <p>Q. Did you, though, ever use the vehicle for personal use? A. No. <i>Loughry Trial Tr., Vol. I, p. 25</i></p>	<p>the state, "or the Pound or anyone," as well as his statements that he never used a state vehicle for personal use.</p>
<p>7</p> <p>Q. Prior to these news reports that you just discussed a few moments ago, had you ever referred to that desk as a, quote, "Cass Gilbert desk"? A. Not a single time. Q. Prior to those news reports, did you know that anyone claimed that it had any connection to Cass Gilbert? A. I don't -- no. The desk that was in my home, absolutely not. Q. And do you think it's a Cass Gilbert desk? A. No. <i>Loughry Trial Tr., Vol. I, p. 52.</i></p> <p style="text-align: center;">* * * *</p> <p>Q. They also asked you at what point did you learn that it was claimed that that was a Cass Gilbert desk. Do you recall that? A. Yes. Q. And your response was? A. I believe I said, during the last session in March, I think I said, "During the last six or seven months when all of this press coverage had occurred." Q. Was that accurate?</p>	<p><b>1. Timing of media reports about desk – not before Nov. 28, 2017.</b></p> <p>Jennifer Bundy explained that her duties as the Supreme Court's Public Information Officer included reviewing news websites for articles about the Supreme Court, <i>see Bundy Trial Tr., p. 4-5.</i></p> <p>K. Bass emailed Loughry on Nov. 28, 2017, asking if Loughry had a Cass Gilbert desk. <i>See Gov. Trial Ex. 81.</i> Loughry asked Bundy to respond. <i>Id.</i></p> <p>Prior to the email from reporter K. Bass on November 28, 2017 [Gov. Trial Ex. 81], Bundy had no knowledge about a desk at Loughry's home. <i>Bundy Trial Tr., p. 14</i> (establishing that there had been no media reports about a Cass Gilbert desk before K. Bass asked on Nov. 28, 2017).</p> <p><i>See also Gov. Trial Ex. 91</i> (Kabler column, dated Nov. 26, 2017, asking about the whereabouts of a couch that had been in Justice Loughry's office, but making no mention of a Cass Gilbert desk).</p> <p>Bundy testified that the Kabler column was published on Sunday, Nov. 26, 2017. <i>Bundy Trial Tr., p. 6, 8; see also Loughry Calendar for Nov. 2017,</i></p>

## ATTACHMENT A

<p>7 A. Yes.</p> <p>Q. Did you know that anybody prior to that media attention had claimed that that desk was a Cass Gilbert desk?</p> <p>A. No.</p> <p>Q. And have you ever referred to it as a Cass Gilbert desk?</p> <p>A. Not a single time. <i>Loughry Trial Tr., Vol. I, p. 64</i></p>	<p><i>Gov. Trial Ex. 71, ECF No. 77-5, p. 93</i> (establishing that Nov. 26, 2017, was a Sunday).</p> <p>Bundy testified that media questions about the couch came in on the Tuesday following the Kabler column, <i>i.e.</i>, November 28, 2017, after a tweet by Kabler that had a picture on it. <i>Bundy Trial Tr., p. 8-9; see also Gundy Trial Tr., p. 45, 52-53</i> (explaining that photo of Mendez and him moving the couch from Loughry's home [Gov. Trial Ex. 55] was the photo on Twitter).</p> <p>Bundy then testified that in reference to questions about the couch, questions about "a Cass Gilbert desk" began either "that day," <i>i.e.</i>, Tuesday, Nov. 28, 2017, "or later that week." <i>Bundy Trial Tr., p. 9.</i></p> <p><b>2. Loughry referred to his desk as a "Cass Gilbert" in talking with Sara Thompson, and at least one other person – Brent Benjamin – said his desk was a Cass Gilbert desk, when Loughry was a law clerk, well before November 2017.</b></p> <p>Benjamin testified that he told Loughry, "Hey, you've got a Cass Gilbert Desk," when Loughry was a law clerk. <i>Benjamin Trial Tr., Vol. I, p. 9.</i></p> <p>Benjamin testified about being in Loughry's office in late 2006 or early 2007, when Loughry was a law clerk, discussing Loughry's desk, and Loughry's saying he was very fortunate to have it; it was very historical. <i>Benjamin Trial Tr., Vol. I, p.8-9</i></p> <p>Thompson testified that in 2007, when Loughry was a law clerk, they had a discussion in Loughry's office about his desk, and Loughry told her his desk was a Cass Gilbert desk, it was historic, and "that's why he wanted to keep it." <i>Thompson Trial Tr., p. 5.</i></p>
--	--



## ATTACHMENT A

7

- 3. Loughry himself referred to his desk as a “Cass Gilbert” when Gundy, Angus, and Mendez helped him move the couch out of his house, and the date they moved the couch was Nov. 27, 2017 – before the first media inquiry about a Cass Gilbert desk on Nov. 28, 2017.**

Angus testified that Loughry asked him to help move a couch and a desk at his home; Loughry said the desk was a Cass Gilbert desk.  
*Angus Trial Tr., p. 25.*

Gundy also testified that in the afternoon of Nov. 27, 2017, Loughry asked him to help move a couch and desk out of his home discreetly, and that Loughry told him the desk was a Cass Gilbert desk.  
*Gundy Trial Tr., p. 42-43.*

Mendez testified that he was “pretty sure” Loughry said “Cass Gilbert” in reference to the desk to be moved from his home, when Mendez was in Loughry’s home to move the couch. According to Mendez “Cass Gilbert” was mentioned by Loughry or someone else, after “he took us back there” [to office in back of house where the desk was located]. *Mendez Trial Tr., p.8-10.*

*See also Bundy Trial Tr., p. 8-9* (testifying that media questions about the couch came in on the Tuesday following the Kabler column, *i.e.*, November 28, 2017, after a tweet by Kabler that had a picture on it.; *see also Gundy Trial Tr., p. 45, 52-53* (explaining that photo of Mendez and him moving the couch from Loughry’s home [Gov. Trial Ex. 55] was the photo on Twitter), thus establishing that moving the couch occurred on Nov. 27, 2017, the day before the media inquiries caused by the Twitter photo.